



418001

STATE OF INDIANA)	IN THE ELKHART SUPERIOR COURT 3
COUNTY OF ELKHART) SS:	CAUSE NO 20D03-1103-PL-10
LEO VANNORMAN, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
FLEXSTEEL INDUSTRIES, INC., LDL REALTY)	
COMPANY, LLC., DAVID DYGERT AND)	
PHYLLIS B. DYGERT,)	
)	
Defendants.)	

AFFIDAVIT OF DAVID DYGERT

David Dygert, sworn upon his oath, hereby states:

1. I am of requisite age and capacity to testify as to all matters stated herein, and am under no legal disability that would in any way preclude me from testifying.
2. I started the business Dygert Seating, Inc. in the early 1980s. Dygert Seating, Inc. made vehicle seating for the recreational vehicle industry.
3. In approximately 1985, I completed construction of a manufacturing site at 53381 Marina Drive in Elkhart, Indiana. The same year, Dygert Seating, Inc. began operations at that manufacturing site.
4. Dygert Seating, Inc. was essentially an assembly and "cut and sew" operation. Namely, Dygert Seating, Inc. purchased metal frames and foam that was pre-formed in the shape of recreational vehicle seat backs and bottoms from vendors. Dygert Seating, Inc. assembled the frames and foam to create an uncovered seat, and then covered the assembled seat in fabric that had been cut and sewn at Dygert Seating, Inc. to create a finished recreational vehicle seat.
5. In November 1988, I purchased a pre-existing manufacturing site at 23542 Cooper Drive in

Elkhart, Indiana. The Cooper Drive site was adjacent to the Marina Drive manufacturing site.

6. After I purchased the Cooper Drive manufacturing site, Dygert Seating, Inc. began manufacturing its own vehicle seating frames out of the Cooper Drive site. The Cooper Drive manufacturing site was called the "Steel Division."
7. The assembly process at the Marina Drive manufacturing site remained the same after I purchased the Cooper Drive manufacturing site, except that the frames for Dygert Seating, Inc. vehicle seating came from the Steel Division on Cooper Drive.
8. In 1995, Dygert Seating, Inc. purchased the assets of another vehicle seating company, called Goshen Cushion, Inc. which had operated out of 1010 Eisenhower Drive in Goshen, Indiana.
9. After purchasing the assets of Goshen Cushion, Inc., Dygert Seating, Inc. leased the manufacturing site at 1010 Eisenhower Drive from Innkeepers of Goshen, which owned the manufacturing facilities and property in Goshen, Indiana.
10. Dygert Seating, Inc. briefly manufactured vehicle seating out of both Goshen and Elkhart from 1995 until approximately December 1, 1996, when Dygert Seating, Inc. closed the Goshen location at 1010 Eisenhower Drive.
11. On January 30, 1997, Dygert Seating, Inc. filed for bankruptcy.
12. On March 18, 1997, Flexsteel Industries, Inc. ("Flexsteel") purchased selected assets of my former business, Dygert Seating, Inc. out of bankruptcy.
13. Flexsteel hired me to be the General Manager of their new Dygert Seating Division of Flexsteel, which manufactured the products previously made by Dygert Seating, Inc. at the Marina Drive and Cooper Drive manufacturing sites in Elkhart, Indiana.


14. Since its creation in March 1997, the Dygert Seating Division of Flexsteel operated in a similar fashion as Dygert Seating, Inc. had operated at the Marina Drive and Cooper Drive manufacturing sites in 1996.
15. The manufacturing processes at the Marina Drive and Cooper Drive manufacturing sites did not require large quantities of chemicals.
16. Large amounts of chemicals were not stored at either the Marina Drive or Cooper Drive manufacturing sites, either.
17. The only chemical-containing product that I am aware was ever purchased in bulk for use in the manufacturing processes at the Marina Drive site, at any time, were a few 55 gallon drums of adhesive. This adhesive was used to glue a limited section of some vehicle seats. I estimate that the Marina Drive manufacturing process used approximately 1 drum of adhesive per month.
18. Full and empty drums of adhesive were stored inside the building at the Marina Drive manufacturing site.
19. Starting in the mid-1990s, Dygert Seating, Inc. purchased adhesive called "Premium Adhesive" in 55 gallon drums from Chem-Tech in Elkhart, Indiana. The Dygert Seating Division of Flexsteel also purchased 55 gallon drums of Premium Adhesive from Chem-Tech.
20. In 2000, Flexsteel closed the manufacturing operations at the Cooper Drive manufacturing site. Thereafter, the Dygert Seating Division of Flexsteel stopped making vehicle seat frames and operated only out of the Marina Drive manufacturing site.
21. I am not aware of any other chemicals purchased in bulk for use at either the Marina Drive or Cooper Drive manufacturing sites except welding gas for the Steel Division at Cooper

Drive, when that manufacturing site was in operation.

22. There was no degreasing machine or parts cleaner at either the Marina Drive manufacturing site or Cooper Drive manufacturing site.
23. On January 2, 2002, Flexsteel sold the assets of its Dygert Seating Division to a new company that I created, called PBD Corporation.

I affirm, under the penalties of perjury, that the foregoing statements are true.

JUNE 2, 2011
Date


David Dygert